



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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Section V
98-99

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**CALIFORNIA RCRA/C 3011 FY98/99 END OF YEAR REPORT
(D 009363-98)**

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INTRODUCTION:

A. OBJECTIVES

The purpose of this End-Of-Year (EOY) evaluation is to review the California Department of Toxic Substances Control's (DTSC) implementation of the authorized RCRA Subtitle C program and completion of the FY98/99 USEPA/DTSC Cooperative Agreement (grant).

DTSC became authorized to implement the RCRA/C program in lieu of USEPA in August 1992.

USEPA and DTSC have discussed the highlights, issues, and recommendations that are included in this report as appropriate.

Throughout this report "FY98/99" will indicate the period from July 1, 1997 to June 30, 1999.

B. METHODOLOGY

This report was prepared by USEPA staff and management of the Region IX, Hazardous Waste Management Division (HWMD) after; reviewing DTSC provided reports, documents, output reviews, and data; RCRIS reports; USEPA files; personal experience; and discussions with both DTSC staff and managers.

This report addresses the grant activities that DTSC formally committed to.

All of the highlights, issues, and recommendations found in this report were discussed with DTSC prior to development of this document.

Verbal and written feedback concerning programmatic issues were provided to DTSC by

USEPA managers and liaisons during both years of the grant. This report then cover both years.

STATUS OF THE FY97/99 GRANT

The FY98/99 RCRA/C Cooperative Agreement (D009363-98) between USEPA and DTSC, that covered the period July 1, 1997 through June 30, 1999, sufficiently addressed all of the program elements identified in the final application.

The total grant was for **\$17,703430.79** of which \$13,185,487.08 was Federal money. The state finished the budget period with \$971,720.92 of unobligated Federal funds.

Because of ongoing negotiations between USEPA and DTSC over an appropriate Indirect Cost Rate (ICR), the Financial Status Report (1/28/00) submitted by DTSC was marked "Final Interim." This grant utilized a USEPA approved "interim" ICR of 80 percent (80%). If the final USEPA approved rate for this period is determined to be less than the approved "interim" rate then DTSC will have to refund to USEPA the balance of Federal funds.

IV. THE FY98/99 GRANT CYCLE

2/5/97	USEPA provides DTSC Grant Guidance
5/31/97	DTSC submits draft Application for Federal Assistance
6/1/97	DTSC submits final Application for Federal Assistance
6/30/97	USEPA approves the FY98/99 work plans
8/23/97	USEPA approves the FY98/99 application (D 009363-98)
3/10/98	USEPA approves an amendment to the grant to apply additional funds (D 009363-98-1)
3/19/98	USEPA provides new guidance for the second year (FY99) of the grant
4/30/98	DTSC submits an Application for Federal Assistance to cover the second year of the Grant (FY99)
6/22/98	USEPA approves the workplan amendments
9/16/98	USEPA approves new Application for Federal Assistance (D 009363-98-2)
11-12/98	USEPA provides EOY brief-backs for FY98 to DTSC (final report to be consolidated in FY98/99 report). Specific programmatic input filed with DTSC FY97/98 EOY.
12/24/98	DTSC submits FSR for the period 07/01/97 to 06/31/98)

1/29/99 USEPA approves final amendment to the grant (D 009363-98-3)

4/16/99 USEPA approves a reallocation of funds to support buying computers

6/30/99 Grant Budget Period ends

1/28/00 DTSC submits final FSR (Final Interim) to cover the period 07/01/97 to 06/30/99.

FINDINGS

1. GRANT MANAGEMENT

HIGHLIGHTS:

- a. Coordination between DTSC and USEPA continued to increase throughout the grant period. A direct result of the ever increasing reliance on continuous informal dialogue, communication, and sharing. Formal joint management coordination meetings continued on a bi-monthly basis.
- b. DTSC and USEPA Region IX worked jointly to resolve the Indirect Cost Rate issue from, the current rate remained eighty percent (80%).
- c. DTSC and USEPA quickly and efficiently negotiated and executed several grant work plan revisions and amendments.
- d. DTSC and USEPA began two year grants.
- e. Continuing progress was made in streamlining the grant application and work plan development and approval processes.
- f. DTSC and USEPA also negotiated and implemented various grant/work plan innovations that increased state flexibility, authority to control resources, work prioritization, and management.
- g. Using this increased authority and flexibility DTSC was able to significantly reduce the number of required work plan revisions and grant amendments.

ISSUE:

- a. Due to internal USEPA staffing issues, the Liaison Programs between several DTSC divisions and Region IX broke down during FY97. This issue was resolved during the first half of FY98/99 with the hiring of additional staff by USEPA Region IX.
- b. Little or no progress appeared to be occur between DTSC and USEPA in developing an appropriate and approved final Indirect Cost Rate (ICR).

Recommendation: DTSC must become more proactive in reconciling the ICR issue. USEPA

Region IX can and will assist DTSC in its communication and dialogue with Headquarters USEPA if requested.

- c. DTSC faced a personnel loss of approximately 25% during the project period. This resulted in a slowdown of work accomplishment, especially in the areas of Permitting and Corrective Action, and the generation of over \$900,000 of unobligated funds.

Recommendation: DTSC should better track its grant expenditures so as to be better able to respond to arising problems and issues. DTSC should relay its financial and resource constraints with USEPA in a more timely fashion.

2. PERMITTING AND CORRECTIVE ACTION

HIGHLIGHTS:

- a. Overall, DTSC's program performance for FY 98/99 was good.
- b. Significant progress was made in the Analogous Review and Completed Output Review projects. This joint project is an important example of interagency team work.
- c. The FY98/99 EOY reports were more complete and represented a continuous improvement over previous years submissions.
- d. During FY98/99 DTSC developed the Multi-Year Permitting and Corrective Action Strategy which it submitted to USEPA ahead of schedule in January 1997. DTSC's efforts are a credit to its commitment to the project.
- e. The joint Completed Output Review (COR) project was an excellent example of interagency team work.
- f. During FY98/99 the DTSC Corrective Action Work Group (CAWG) created Corrective Action Program Implementation Guidance for improving, streamlining and making more cost-effective state corrective action activities.
- g. DTSC has increased public participation and community involvement at facilities with controversial issues.

ISSUES:

- a. DTSC has not been able to resolve the significant discrepancies between DTSC's dBASE reports, ARIS and RCRIS. The Mid-Year and End-of-Year reports that DTSC submitted did not reflect the actual work that DTSC was accomplishing. Additionally, the weakness of the state's information system may be adversely affecting its prioritization of effort.

Recommendation: The Permitting and Corrective action staff and management need to pre-screen data reports for accuracy before submitting them to USEPA and should become more proactively involved with the Joint DTSC/USEPA Data Coordination Work Group. Additionally,

DTSC should move away from the manual "Smart Form" method of transferring data to USEPA.

- b. DTSC needs to assure that the recommendations of the Completed Output Review (COR) reports are adequately and appropriately implemented.

Recommendations: The COR team should follow up the implementation by each DTSC Region of the recommendations made in the CORs; and if possible, verify the implementation of recommendations in subsequent CORs.

Use the results of the CORs as an additional tool to identify training needs specific to each DTSC region and for DTSC at large.

- c. The grant work plan did not include a schedule to issue final COR reports.

Recommendation: Future work plans should schedule the submission of the final COR Reports for not more than 60 calendar days after completion of the COR.

- d. Based upon the findings of the CORs, USEPA is concerned about the quality of the corrective action outputs that were reviewed.

Recommendation: DTSC needs to develop action plans to respond to the COR Team findings and do follow-up to assure that the work is completed.

- e. The Analogous Review Project to assure the appropriateness of the California Regional Quality Controls Boards (CRWQCBs) RCRA/C became active again during the project cycle.

Recommendation: None

- f. DTSC continued to substitute lower priority work from the workplan pools for critical activities such as closure verifications, final permit determinations, RFI report approvals and RFI workplan approvals. In some areas DTSC was substituting over 50% of activities. While the work was all important and authorized, it distract USEPA oversight and sometimes avoided critical activities.

Recommendation: DTSC must develop and negotiate workplans that address high priority work and stay with those plans.

- g. DTSC needs to make more progress in making final treatment/storage (T/S) and post closure final permit determinations and in completing the permit backlog.

Recommendation: Before the anticipated permit renewals begin to increase the workload, USEPA recommends that progress and resources be increased for addressing the permit backlog and in making final post closure and T/S final permit determinations.

- h. The preparation and distribution of RFAs to CRWQCB and SMP project managers was inconsistent.

Recommendation: Ensure that RFAs are prepared and distributed in a timely fashion to CRWQCB and SMP project managers along with guidance on how to use these documents to guide site investigations and cleanups at RCRA TSDs.

- i. There appears to be a lack of progress in moving facilities subject to corrective action from the RFI Report approval phase through the Corrective Measures Study (CMS) and Corrective Measures Implementation (CMI) steps.

Recommendation: DTSC should examine the issue and develop appropriate streamlining or management measures, such as using interim measures earlier in the process, to accelerate remedial action.

3. STATEWIDE COMPLIANCE

HIGHLIGHTS:

- a. For FY98/99 the DTSC Statewide Compliance Division (SCD) has satisfactorily met the obligations of the work plan. They have met the specified commitments and made significant progress in other “pooled” activities, including Multi-media enforcement and Multi-Agency Criminal Task Force initiatives. SCD is taking adequate enforcement actions and has settled some very important cases.
- b. The Task Force accomplishment reports submitted to USEPA clearly identified that significant enforcement actions were being taken. SCD’s continued participation in this area is worthwhile and commendable.
- c. During the grant cycle SCD completed more inspections at TSDF’s than were committed to in the workplan.
- d. DTSC initiated a Complaints Quality Action Team to make recommendations for changing the existing process for handling complaints. Based upon the teams findings it also implemented immediate changes to the complaints process, even as the QAT continued to comprehensively assess the process.
- e. All inspection reports and correspondence required to be copied to USEPA were completed and received.

ISSUE:

- a. Although SCD continues to work on the accuracy of its data, the routine data for inspections and enforcement actions is inadequate. There continues to be numerous discrepancies between the USEPA RCRIS data and SCD’s data, which made it cumbersome to verify activities and accomplishments.

Recommendation: The SCD staff should become more pro-actively involved with the proposed Joint DTSC/USEPA Data Coordination Work Group to develop the necessary solutions.

- b. DTSC remained behind schedule in conducting O&M inspections. While some progress was made in the second year of the grant DTSC some inspections had to be bumped to FY00/01.

Recommendation: DTSC needs to schedule and conduct required work in a regular and pro-active manner. Unexpected delays or issues can and will cause problems.

- c. DTSC failed to adequately address compliance monitoring at refineries.

Recommendation: If DTSC is unable to address an industry sector they should coordinate early with USEPA to assure adequate coverage.

4. STATE REGULATORY PROGRAMS

HIGHLIGHTS:

- a. During FY98/99 DTSC's priority continued to be the development of the Certified Unified Program Agency (CUPA) program. This program addressed compliance monitoring and enforcement at RCRA generators by local agencies. Consequently DTSC continued to conduct hazardous waste generator and inspector training classes, develop workshops and fact sheets for industry assistance, develop appropriate regulatory packages and began addressing compliance in non-CUPA counties.
- b. SRPD implemented a pilot triennial review project for Kings and San Francisco County. In order to implement this project, SRPD completed the compendium of Performance Standards and the CUPA evaluation Process Guidance Manual. These documents form the foundation for all CUPA evaluations.

ISSUES:

- a. While the grant work plan clearly indicated (pools) of authorized and fundable RCRA activities and outputs, it did not sufficiently identify milestones for meeting some final work outputs.

Recommendation: For future grants SRPD must develop a schedule of milestones and deliverables as targets for planning purposes. Because the nature of the activities currently being conducted by SRPD are primarily focused upon program development and involve multiple stakeholders, USEPA recognizes that flexibility must be built into any grant work plans. As necessary planning milestones can be adjusted.

- b. There still appears to be a lack of authorized compliance monitoring and enforcement in non-CUPA counties. Authorization requires that the state have a program for comprehensive surveillance of hazardous waste handlers.

Recommendation: If DTSC is temporarily not able to assure surveillance of fully regulated RCRA/C handlers in non-CUPA counties it should coordinate with USEPA to provide such surveillance assistance.

- c. While DTSC has developed adequate performance standards it is unclear if those standards are being implemented in some CUPA's.

Recommendation: DTSC should develop an oversight and information collection system to assure that appropriate monitoring and enforcement is being conducted by the CUPA's.

5. MEXICO BORDER

HIGHLIGHTS:

- a. The DTSC Border program is running smoothly. The Border Coordinator has coordinated well with USEPA to address the complex issues that arise on the California-Baja California border. Additionally, the Border Coordinator has worked hard to establish good working relationships with Mexican official on both the state and federal levels.
- b. The presence of hazardous waste inspectors from DTSC and San Diego County at the ports of entry remains a critical part of the border program's efforts. This has resulted in an observable increase in compliance as transporters learn the correct procedures and understand that noncompliance will often result in enforcement actions.
- c. On the pollution prevention and compliance assistance front, the Border Coordinator has led a very successful series of workshops for industry and government officials. These workshops covered a wide range of issues, from regulatory assistance training on import-export requirements and waste classification, to efforts to go beyond compliance, such as the pollution prevention workshops for the electronics industry.

ISSUES: The installation and use of the Haztrak hazardous waste tracking system continues to be an issue. In the past, a lack of adequate computer hardware has made it impracticable for DTSC to use the system.

Recommendation: DTSC should implement the newest version of the Haztrak program.

6. LEGAL COUNSEL AND CRIMINAL INVESTIGATIONS

HIGHLIGHTS:

- a. During the grant period the DTSC Office of Legal Counsel and Criminal Investigations (OLC) divided its support of RCRA hazardous waste management activities almost equally between permit and corrective action activities and, compliance and enforcement activities.

ISSUE: During FY98/99 DTSC continued to express the strong feeling that their response to complaints of violation of Title VI of the Civil Rights Act of 1964 should be funded with the RCRA/C grant.

Recommendation: None

7. INFORMATION MANAGEMENT

HIGHLIGHTS:

- a. During FY98/99 DTSC met their minimum grant commitments for data management.
- b. The use of "Smart Forms" for the manual transfer of data from DTSC to USEPA worked well through out the grant year.
- c. During FY98/99 DTSC made strong efforts to update their permitting and handler information in RCRIS.

ISSUES:

- a. Little improvement from FY96/97 was found in DTSC's data handling.
- b. During the course of the grant cycle USEPA continued to find numerous data discrepancies between the national data base and what DTSC was reporting to USEPA. It also appears that some necessary data is not being reported to USEPA. Specifically an analysis of Corrective Action data, Legal and Operating Status data, and the Permitting Universe data indicated that the data was not being kept up to date.
- c. Also, a review of the dBASE reports submitted by DTSC for program/grant evaluation purposes revealed both missing and confusing information and data.
- d. There did not appear to be an appropriate or timely internal feed-back loop for appraising DTSC of data issues before discovery by USEPA.

Recommendation: DTSC staff should apply more resources and effort to improve its information and reporting systems. Additionally, it needs to be more pro-actively involved with the Joint DTSC/USEPA Data Coordination Working Group to develop the necessary protocols and solutions to be implemented in FY00/01.

8. TRAINING

HIGHLIGHTS: Overall, DTSC has developed a respectable internal and external training coordination program. No commitments were missed.

Recommendations: None

9. PUBLIC PARTICIPATION

HIGHLIGHTS: Public Participation continued to be adequate and focused heavily upon permitting issues.

Recommendations: None

10. POLLUTION PREVENTION

HIGHLIGHTS: During FY98/99 DTSC continued to address Pollution Prevention issues and to meet its grant commitments.

Recommendation: None

11. AUTHORIZATION

HIGHLIGHTS: The rejuvenation of the RCRA/C Authorization process continued as a key focus issue in FY98/99. Because of the significant backlog and lack of progress during the previous several years DTSC and USEPA prioritized this as a key grant area. Extensive coordination and sharing of work allowed DTSC to overcome most of the backlog. This area constitutes a significant area of success for DTSC.

Recommendation: None

